

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

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|-------------------------------|--|-------------------|
| TONI MILES | § | PLAINTIFF |
| | § | |
| v. | § Civil Action No. 1:09CV713-LG-RHW | |
| | § | |
| RAYCOM MEDIA, INC. and | § | |
| RAYCOM MEDIA doing | § | |
| business as WLOX, LLC | § | DEFENDANTS |

**ORDER DENYING PLAINTIFF'S MOTION TO
SET ASIDE ORDER GRANTING MOTION TO DISMISS**

BEFORE THE COURT is the Motion to Set Aside Order granting Motion to Dismiss [31] that was filed by Toni Miles. Upon reviewing the Motion and the applicable law, the Court finds that the Motion should be denied.

Discussion

In her Motion, Miles claims that she did not receive a copy of the Court's Order Granting Motion to Dismiss, and for that reason she asks that the Order be set aside. She does not assert any other basis for setting aside the Order.

Pursuant to Fed. R. Civ. P. 59(e), a motion to set aside a court order may only be granted if (1) there is a need to correct a manifest error in law or fact; (2) the movant uncovered new evidence that was reasonably unknown prior to entry of the judgment or order in question; or (3) an intervening change in controlling law occurred.

Schiller v. Physicians Res. Group, Inc., 342 F.3d 563, 567 (5th Cir. 2003). A Rule 59(e) Motion should not be used to relitigate matters that should have been argued earlier, or that simply were not resolved to the movant's satisfaction. *Mongrue v. Monsanto Co.*, 249 F.3d 422, 427 (5th Cir. 2001); *Simon v. United States*, 891 F. 2d 1154, 1159

(5th Cir. 1990).

First, the Court did send a copy of the Order granting Motion to Dismiss to Miles at the address provided to the Court. However, the Court is providing another copy of the Order to Miles, along with the present Order. Furthermore, Miles has not demonstrated a need to correct a manifest error in law or fact, a change in the law, or the existence of new evidence. Therefore, the Court finds that the Motion to Set Aside Order granting Motion to Dismiss should be denied.

IT IS THEREFORE ORDERED AND ADJUDGED that Motion to Set Aside Order granting Motion to Dismiss [31] that was filed by Toni Miles is **DENIED**.
SO ORDERED AND ADJUDGED this the 23rd day of September, 2010.

s/ Louis Guirola, Jr.
Louis Guirola, Jr.
United States District Judge